

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

CASE NO.: 20069/2013

- (1) REPORTABLE: NO  
(2) OF INTEREST TO OTHER JUDGES: NO  
(3) REVISED: NO

Date: 24 August 2026

E van der Schyff

In the matter between:

**DANIEL BHEKIFA TSHABALALA**

**APPLICANT**

and

**THE STANDARD BANK OF SOUTH AFRICA LIMITED**

**RESPONDENT**

*In re:*

**THE STANDARD BANK OF SOUTH AFRICA LIMITED**

**PLAINTIFF**

and

**DANIEL BHEKIFA TSHABALALA**

**DEFENDANT**

*Delivered: This judgment is handed down electronically by uploading it to the electronic file of this matter on CaseLines. If there is a discrepancy between the date the judgment is signed and the date it is uploaded to CaseLines, the date it is uploaded to CaseLines is deemed the date the judgment is handed down.*

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**JUDGMENT**

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**VAN DER SCHYFF J**

*Introduction*

[1] The applicant (Mr. Tshabalala or the applicant) seeks leave to appeal against the summary judgment granted by Prinsloo J on 10 September 2013 in favour of the Standard Bank of South Africa (the Bank or the respondent). The application for leave to appeal is dated 27 September 2013. It was delivered to the respondent's attorney of record on 30 September 2013. Subsequent to the application for leave to appeal having been filed, Mr. Tshabalala participated in Rule 46 proceedings aimed at obtaining a warrant of execution against his primary residence. In an amended affidavit filed in those proceedings, Mr. Tshabalala, among others, stated that his offer to pay the arrears within a reasonable time of three months was rejected by the Bank, but requested the Court's indulgence in granting him 120 days to settle his debt with the Bank. This culminated in an order handed down by the Honourable Mabuse J on 14 November 2016, in terms of which the relief sought under Rule 46 was postponed *sine die* to afford Mr. Tshabalala 120 days to settle the judgment debt.

[2] The applicant did not pursue the application for leave to appeal. It was enrolled by the respondent and argued on 14 August 2026.

### *Discussion*

[3] The application for leave to appeal has no reasonable prospects of success. The transcript of the proceedings before Prinsloo J records that the applicant conceded the relief sought by the Bank, and agreed to the order sought. After the Court specifically asked Mr. Tshabalala's counsel whether he agreed to the submissions made on behalf of the Bank, counsel responded: "That is indeed correct".

[4] The application for leave to appeal does not make out a case for setting aside, or otherwise escaping the consequences of that consent. It seeks, instead, to revisit matters which preceded the agreement pursuant to which the order was granted. There is accordingly no reasonable prospect that another court would interfere with the order.

[5] The applicant's subsequent conduct supports this finding. Although the applicant delivered the application for leave to appeal shortly after the order was granted, he thereafter participated in proceedings directed at satisfying the judgment debt. He undertook to settle the judgment debt within a specific period. That conduct at least raises

the question whether his right to challenge the order was subsequently perempted. The respondent did not raise the issue of peremption. It is, in any event, unnecessary to decide the issue. The application fails because no basis has been established for challenging the consent order.

[6] At the hearing, the applicant further submitted that the Bank had taken an irregular step by having the application for leave to appeal set down. The point is without merit. The application for leave to appeal was the applicant's own application. He took no steps to prosecute it for many years. The Bank approached the Deputy Judge President for directions and requested that the pending application be enrolled because Prinsloo J had since retired. The matter was thereafter allocated for hearing. There is no irregularity which precluded the Court from hearing and determining the applicant's own application, nor was any prejudice demonstrated.

[7] There is no merit in the contention that the applicant waited to be furnished with written reasons for the order having been granted. Not only was the order granted by consent, but the transcripts of the proceedings have also been available for a substantial period of time.

[8] The requirements of section 17(1) of the Superior Courts Act 10 of 2013 have not been met.

## **ORDER**

**In the result, the following order is granted:**

- 1. The application for leave to appeal is dismissed with costs**

  
**E VAN DER SCHYFF**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

For the applicant:  
Instructed by:

Adv. PL Mphahlele  
MG Molefe Attorneys

For respondent:  
Instructed by:

Adv. N Loopoo  
Ramsay Weber Attorneys

Date of the hearing:

14 August 2026

Date of judgment:

24 August 2026